

The First Decade

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Verfassungsblog years

Ten years have passed since I set up a small WordPress website with the name "Verfassungsblog" in the summer of 2009, blissfully ignorant of what would become of me, the world and that blog in the decade to come. A lot has happened and been reflected on Verfassungsblog since, and I hope you forgive my sentimentality if I use this last editorial before the summer break for a little walk down memory lane.

[8 August 2009](#): the first proper blog post (everything before was just fooling around). The Federal Constitutional Court had just issued its tremendously controversial ruling on the **Lisbon Treaty**. In reaction to that astonishing document, 33 prominent European lawyers from Germany have signed an open letter calling for the legislator to step in and oblige the FCC to refer EU law questions to the ECJ for clarification before issuing an *ultra vires* judgment. Quite a scandal at the time. The sovereigntism in the Second Senate of the FCC, the "EU Supreme Court" ambitions of the ECJ and the resulting never-ending marital discontent in the *Verfassungsgerichtsverbund* between Karlsruhe and Luxembourg: the topic hasn't ceased to terrify and fascinate us until today.

[9 December 2009](#): The FCC stops the deportation of a refugee to Greece because the asylum system there has collapsed – those who wanted to know could know that the **refugee crisis** was already well underway at that point. [Lampedusa](#), the [ECtHR and ECJ case law](#) and, of course, the fight against the [Rechtsbruch myth](#) at the height of the crisis in 2015/16: the subject runs through the entire decade.

[27 January 2010](#): The **US Supreme Court** hands down its decision on *Citizens United*. In matters of policy ([Obamacare](#), [same-sex marriage](#)) non-partisan decisions and "swing votes" still occur, but in matters of electoral law, when it comes to the nuts and bolts of the democratic process, the Court by-and-large can be trusted to [reinforce the Republicans' grip on power](#) by means of constitutional law.

[14 April 2010](#): I vent the idea to develop Verfassungsblog towards a **discourse platform** on matters constitutional. On 26 June 2010, the first guest post appears on Verfassungsblog – [RUSS MILLER](#) likes the idea of Joachim Gauck as Federal President. On [16 November 2011](#), my cooperation with *Wissenschaftskolleg*

and *Recht im Kontext* begins, with CHRISTOPH MÖLLERS and ALEXANDRA KEMMERER, and with it the successful establishment of Verfassungsblog as a transnational discourse platform on matters constitutional. The expansion is given a further boost by the cooperation with the [WZB Center for Global Constitutionalism](#) and MATTIAS KUMM in 2015.

[10 May 2010](#): The **euro crisis** breaks out, stirring much concern as to how the Federal Constitutional Court will react. In October 2013, JAKOB VON WEIZSÄCKER and I gather a dozen economists, lawyers and political scientists under the name of "[Glienicke Group](#)" to work on a proposal for a Euro Union.

[20 January 2011](#): At a small conference at Humboldt University, KRISZTA KÓVACS and GÁBOR ATTILA TÓTH report to my bewilderment on the new constitution that is underway in Fidesz-dominated **Hungary**. I decide to travel to Budapest and see for myself – the beginning of my work on constitutional backsliding which also continues to this day. On [23 November 2015](#), ANNA #LEDZI#SKA-SIMON breaks the news that **Poland** is about to join or even surpass Hungary in that respect...

[16 February 2011](#): Minister of Defence **Guttenberg**, Bavarian superstar of German politics at the time and holder of a doctoral degree in constitutional law from the University of Bayreuth, is revealed to be a fraud and a plagiarist. My post on this matter becomes the most discussed post on Verfassungsblog up to that date, the comments still being interesting today as a documentation of cognitive dissonance on the part of a public enamored of a charming confidence trickster. This was one of the most egregious but by far not the only example of the politics-by-confidence-trick style that has come to be the hallmark of CSU in recent years.

[29 March 2011](#): Verfassungsblog finally gets rid of the hideous pea-green **design** theme of its initial days. On [31 October 2012](#), the cooperation with *Recht im Kontext* brings forth a proper, professional, unmistakable design concept which stays in place until 2015.

[6 May 2011](#): In Scotland the SNP wins an absolute majority and draws my attention to the phenomenon of **regional separatism** in Europe – in the Scottish case initially not without sympathy, which evaporated however when Catalonia launched its [independence "referendum"](#) without any constitutional basis in 2016.

[5 June 2011](#): Germany is on the verge of no longer having a valid **election law** in place after the federal legislator failed to fix the unconstitutional parts of the law within the timeframe set by the FCC. We kind of have gotten used to the fact that a constitutionally irreproachable electoral law is somehow out of reach for us. Or have we?

[21 June 2011](#): I travel to **Iceland** to observe the experiment of the (misleadingly) so-called "crowdsourcing" constitution. Another topic that stays with me for a long time.

[9 December 2011](#): Under the headline "Letting the British go" I am indulging in a bout of sentimentality about the **British membership in the EU** and the perspective that it might in fact end one day soon. Little did I know...

[9-19 December 2011](#): the first **online symposium** on the fiscal union with contributions from FRANZ MAYER, MARTIN NETTESHEIM, FRANK SCHORKOPF and DANIEL THYM. In [February 2012](#), the next online symposium follows, on the proposal by ARMIN VON BOGDANDY and his working group at the MPIL in Heidelberg to install a "rescue package for fundamental rights", expanding the possibilities of the ECJ vis-à-vis illiberal member states. This online symposium has met with an enormous response and lays the foundation for this very successful format as well as for cooperation with MPIL that continues to this day.

I'll leave it at that. It is noticeable that most of the topics that came to be the core of what we do here on Verfassungsblog were actually around pretty much from the beginning. Few of the things that keep us busy today are really new. It's their dimension I couldn't imagine back then, like most people, I suppose.

Democratic tragedy

This week, the decision of the state election committee in **Saxony** to reject parts of the far-right AfD list for the state elections caused a tremendous deal of excitement. On Verfassungsblog, [CHRISTOPH and SOPHIE SCHÖNBERGER](#) consider the decision to be "incomprehensible": Saxon electoral law does not contain a ban on successively drawing up the electoral list at two separate party congresses one after the other. The discussion in the comments section is remarkably intense, nuanced and predominantly factual.

One of the leaders of the failed **Catalan** separatists, ex-President Carles Puigdemont, cannot take up his EP mandate because, according to Spanish electoral law, he would have to swear allegiance to the Spanish constitution first. The European General Court denies him a temporary injunction against Spain, which according to [PETER VAN ELSUWEGE](#) probably won't be the last word in the matter before the backdrop of Union citizenship and the civil rights that come with it.

After the release of SeaWatch captain Carola Rackete, **Italy's** far-right Minister of the Interior and factual head of government Matteo Salvini has launched a rabid attack against the independence of the Italian judiciary – not for the first time and by no means accidentally, according to [CESARE PINELLI](#).

Speaking of judicial independence: The recent ECJ ruling on **Poland** has a dark side and a blind spot according to [MATEJ AVBELJ](#), namely with regard to the internal independence of the judiciary in post-communist Eastern Europe, where often the top ranks of the judiciary still maintain an unhealthily close relationship with the executive elite.

In **Germany**, the legislator is discussing whether it should be sufficient for organ donation in the future that the donor hasn't explicitly objected. [JOSEF FRANZ LINDNER](#) raises the question of whether it is fair to do this to people who may not even have taken notice of such a system change.

Elsewhere

[BAS VAN BOCKEL](#) is concerned about the internal disagreement on the bench of the ECtHR in a **Slovenian** case.

[GEMMA BIRD](#) contradicts the assumption that young men living under inhumane conditions in refugee camps in **Greece** are necessarily less vulnerable than others.

[LORENZO GRADONI](#) and [LUCA PASQUET](#) compare **Italy's** Interior Minister Salvini with Creon and Carola Rackete with Antigone.

[ROBERT CRAIG](#) doubts that a **British** Prime Minister's attempt to push through a no-deal Brexit through prorogation of Parliament could be challenged in court.

[TAMAR HOSTOVSKY BRANDES](#) and [IDIT SHAFRAN GITTLEMAN](#) are encouraged by the decision of the beleaguered Supreme Court of **Israel** to protect the right to hold a joint Israeli-Palestinian memorial event.

[SANDY LEVINSON](#) asks why the reasoning in the *Rucho* decision on gerrymandering in the US, written by Chief Justice John Roberts who is not a stupid person, contains so much stupidity.

[JESSICA DAVIS](#) welcomes the fact that the **Canadian** government is beginning to take action against neo-Nazis.

[WILLIAM PARTLETT](#) examines how the Constitutional Court of **Moldova** has become a tool for corrupt political elites.

[PRIYA PILLAI](#) draws our attention to a barely noticed humanitarian and constitutional disaster of inconceivable proportions, the stripping of some 2 million people in the **Indian** state of Assam of their citizenship.

That's it for now. I will take a break with the weekly editorial, whereas on Verfassungsblog operations will be kept up on a possibly somewhat reduced level. Enjoy the summer, make sure you apply sunscreen, don't drink too much frozen Daiquiri and keep up the constitutionalist spirit! All the best, and see you in a few weeks,

Max Steinbeis

